**THE HON'BLE SRI JUSTICE R.SUBHASH REDDY**

**WRIT PETITION No.26283 of 1999**

**Dated: 07.06.2007**

Between:

Majeti Balarama Krishna S/o late Venkatanagabhushanam,
Pandurangal Mahal, Dr.Swamy Street,
Gandhinagar, Vijayawada – 3.

**..... PETITIONER**

AND

Authority under payment of Wages Act and
Assistant Commissioner of Labour,
Vijayawada and another.

**.....RESPONDENTS**

**THE HON'BLE SRI JUSTICE R.SUBHASH REDDY**

**WRIT PETITION No.26283 of 1999**

**ORDER:**

This writ petition is filed questioning the Award dated 16.02.1999 passed by the first respondent-Authority under payment of Wages Act and Assistant Commissioner of Labour, Vijayawada, in P.W.O.P.No.4 of 1998.

Second respondent herein was the applicant in the said P.W.O.P. He filed the said petition before the first respondent claiming an amount of Rs.16,275/- towards wages from 03.09.1976. It was the case of the second respondent in the said claim petition that he was appointed as supervisor in Sri Panduraga Spun Pipes Company Gollapudi on 03.09.1976 and the said Company was closed in the month of September 1984 and that the said Company is liable to pay wages to him to a tune of Rs.16,275/-. The first respondent set the petitioner *ex* parte on the ground that the petitioner has refused to receive the notice

issued to him and as such, without going into merits of the case, allowed the claim petition filed by the second respondent.

In the writ petition, petitioner states that Sri Panduranga Spun Pipes Company was incorporated only on 01.05.1998 and the petitioner was not the Managing Partner of the said company, as described. He further states that though the second respondent stated that the said company was not in existence, the notice was sent to the office address and on the ground that notice was refused, the second respondent could obtain the impugned award from the Tribunal.

Though the second respondent filed counter-affidavit, there is no categorical denial with regard to the date of incorporation of the said company and the particulars of the period he worked.

It is the case of the petitioner that he did not employ the second respondent in the said company and as such he is not liable for payment of any wages, as ordered by the Tribunal. It is also categorically stated that there was no attempt for service of notice on the petitioner and as such, without giving opportunity to the petitioner, the impugned award was passed.

In the normal course, the petitioner shall be directed to avail the alternative remedy of appeal. But, however, inasmuch as the impugned award was passed without going into the merits of the claim, and as several factual disputes are raised by the petitioner, I am of the view that it is a fit case to give an opportunity to the petitioner to contest the claim. Though it was the case of the second respondent that he worked in the said company from 03.09.1976, the petitioner in his affidavit states that the said company was not in existence by that time. In that view of the matter, I deem it appropriate to set aside the impugned award and remand the matter for fresh consideration.

Accordingly, the Award dated 16.02.1999 passed by the first respondent is set aside and the matter is remitted back to the first

respondent for fresh consideration. However, it is made clear that the deposit made by the petitioner and withdrawal of half of such amount by the second respondent, pursuant to the interim order passed by this Court, is subject to the final order to be passed by the first respondent.

The writ petition is allowed to the extent indicated above. There shall be no order as to costs.

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07.06.2007

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